

Idaho Department of Commerce

Business Incentives Manual FY2011

THE IDAHO BUSINESS ADVANTAGE

Incentive Package

Businesses that invest a minimum of \$500,000 in new facilities and create at least 10 new jobs averaging \$40,000 annually plus benefits may qualify for a variety of incentives.

To qualify:

- The business must create at least 10 new jobs paying on average \$40,000/year (\$19.23/hour) plus benefits.
- The average wage of any additional new employee during project period must be \$15.50/hour plus benefits
- The business must invest \$500,000 in new facilities
- Project period ends when facilities put into service

Incentives:

- **Investment Tax Credit of 3.75%** - The credit is limited to 62.5% of the taxpayer's tax or \$750,000 whichever is less for the taxable year. Can be carried forward 14 years.
- **Real Property Improvement Tax Credit of 2.5%** - A nonrefundable credit against income taxes that is allowed on new plant and buildings and structural components that do not qualify for ITC. The credit cannot exceed \$125,000 in any one taxable year and has a 14-year carry forward provision.
- **New Jobs Income Tax Credit** - This credit can be applied for new jobs according to the following scale:
 - 15.50/hr to 24.03/hr = \$1000/job
 - 24.04/hr to 28.85/hr = \$1500/job
 - 28.86/hr to 36.06/hr = \$2000/job
 - 36.07/hr to 43.27/hr = \$2500/job
 - 43.28/hr or more = \$3000/jobEmployee must work 9 months before credit applies.
- **Sales and Use Tax Rebate** - A 25% rebate is available on all sales and use tax that the taxpayer or its contractors actually paid for any property constructed, located or installed within the project site during the project period.
- **Small Employer Growth Incentive Exemption** - Local county commissions have the authority to exempt all or a part of the new investment value from property taxes for a determined period of time.

Project period - no earlier than January 1, 2006 ending December 31, 2020.

TITLE 63
REVENUE AND TAXATION
CHAPTER 44

THE IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005

63-4401.SHORT TITLE. This chapter shall be known and may be cited as "The Idaho Small Employer Incentive Act of 2005."

63-4402.DEFINITIONS. (1) The definitions contained in the Idaho income tax act, shall apply to this chapter unless modified in this chapter or unless the context clearly requires another definition.

(2) As used in this chapter:

(a) "Commission" means the Idaho state tax commission.

(b) "New plant and building facilities" means facility or facilities, including related parking facilities, where employees are physically employed.

(c) "Idaho income tax act" means [chapter 30, title 63](#), Idaho Code.

(d) "Investment in new plant" means investment in new plant and building facilities that are:

(i) Qualified investments; or

(ii) Buildings or structural components of buildings.

(e) "New employee":

(i) Means an individual, employed primarily within the project site by the taxpayer, subject to Idaho income tax withholding whether or not any amounts are required to be withheld, covered for unemployment insurance purposes under [chapter 13, title 72](#), Idaho Code, and who was eligible to receive employer provided coverage under a health benefit plan as described in section [41-4703](#), Idaho Code, during the taxable year. A person shall be deemed to be so employed if such person performs duties on a regular full-time basis.

(ii) The number of employees employed primarily within the project site by the taxpayer, during any taxable year for a taxpayer shall be the mathematical average of the number of such employees reported to the Idaho department of labor for employment security purposes during the twelve (12) months of the taxable year which qualified under paragraph (e)(i) of this subsection (2). In the event the business is in operation for less than the entire taxable year, the number of employees of the taxpayer for the year shall be the average number actually employed during the months of operation, provided that the qualifications of paragraph (e)(i) of this subsection (2) are met.

(iii) Existing employees of the taxpayer who obtain new qualifying positions within the project site and employees transferred from a related taxpayer or acquired as part of the acquisition of a trade or business from another taxpayer within the prior twelve (12) months are not included in this definition unless the new position or transfer creates a net new job in Idaho.

(f) "Project period" means the period of time beginning at a physical change to the project site or the first employment of new employees located in Idaho who are related to the activities at the project site, and ending when the facilities

constituting the project are placed in service, but no later than December 31, 2020 and no longer than ten (10) years after the beginning.

(g) "Project site" means an area or areas at which new plant and building facilities are located and at which the tax incentive criteria have been or will be met and which are either:

(i) A single geographic area located in this state at which the new plant and building facilities owned or leased by the taxpayer are located; or

(ii) One (1) or more geographic areas located in this state if eighty percent (80%) or more of the investment required by subsection (2)(j)(i) of this section is made at one (1) of the areas.

(iii) The project site must be identified and described to the commission by a taxpayer subject to tax under the Idaho income tax act, in the form and manner prescribed by the commission.

(h) "Qualified investment" shall be defined as in section [63-3029B](#), Idaho Code.

(i) "Recapture period" means:

(i) In the case of credits described in sections [63-4403](#) and [63-4404](#), Idaho Code, the same period for which a recapture of investment tax credit under section [63-3029B](#), Idaho Code, is required; or

(ii) In the case of credits described in section [63-4405](#), Idaho Code, five (5) years from the date the project period ends.

(j) "Tax incentive criteria" means a taxpayer meeting at a project site the requirements of subparagraphs (i) and (ii) of this paragraph (j).

(i) During the project period, making capital investments in new plant of at least five hundred thousand dollars (\$500,000) at the project site.

(ii) During a period of time beginning on January 1, 2006, and ending at the conclusion of the project period:

1. Increasing employment at the project site by at least ten (10) new employees each of whom must earn at least nineteen dollars and twenty-three cents (\$19.23) per hour worked during the taxpayer's taxable year.

2. Employment increases above the ten (10) new employees described in subparagraph (ii)1. of this paragraph (j) at the project site shall on average earn at least fifteen dollars and fifty cents (\$15.50) per hour worked during the taxpayer's taxable year. Calculation of the group average earnings shall not include amounts paid to any employee earning more than forty-eight dollars and eight cents (\$48.08) per hour.

3. Earnings calculated pursuant to subparagraph (ii) of this paragraph (j) shall include income upon which Idaho income tax withholding is required under section [63-3035](#), Idaho Code, but shall not include income such as stock options or restricted stock grants.

4. For purposes of determining whether the increased employment threshold has been met, employment at the project site shall be determined by calculating the increase of such new employees reported to the Idaho department of labor for employment security purposes over the employees so reported as of the beginning of the project period or no earlier than January 1, 2006, whichever is larger; and

5. Maintaining net increased employment in Idaho required by subparagraph (ii) of this paragraph (j) during the remainder of the project period.

(k) "Taxpayer," for purposes of paragraphs (j) and (e) of this subsection (2), means either:

(i) A single taxpayer; or

(ii) In the context of a unitary group filing a combined report under section [63-3027](#)(t), Idaho Code, all members of a unitary group includable in a combined report for the tax years in which the credit provided for by this chapter may be claimed. For all other purposes, the terms of section [63-3009](#), Idaho Code, and section [63-3027](#)(t)(1), Idaho Code, apply to the meaning of "taxpayer."

63-4403. ADDITIONAL INCOME TAX CREDIT FOR CAPITAL INVESTMENT. (1) For taxable years beginning on or after January 1, 2006, and before December 31, 2020, and subject to the limitations of this chapter, a taxpayer who has certified that the tax incentive criteria will be met within a project site during a project period shall, in regard to qualified investments made after the beginning of the project period and before December 31, 2020, in lieu of the investment tax credit provided in section [63-3029B](#), Idaho Code, be allowed a nonrefundable credit against taxes imposed by sections [63-3024](#), [63-3025](#) and [63-3025A](#), Idaho Code, in the amount of three and seventy-five one hundredths percent (3.75%) of the amount of qualified investment made during the project period, wherever located within this state.

(2) The credit allowed by this section shall not exceed sixty-two and five-tenths percent (62.5%) of the tax liability of the taxpayer.

(3) The credit allowed by this section shall not exceed seven hundred fifty thousand dollars (\$750,000) in any one (1) taxable year.

63-4404. REAL PROPERTY IMPROVEMENT TAX CREDIT. [EFFECTIVE UNTIL DECEMBER 31, 2020] (1) For taxable years beginning on or after January 1, 2006, and before December 31, 2020, subject to the limitations of this chapter, a taxpayer who has certified that the tax incentive criteria will be met within a project site during a project period shall be allowed a nonrefundable credit against taxes imposed by sections [63-3024](#), [63-3025](#) and [63-3025A](#), Idaho Code, in the amount of two and five-tenths percent (2.5%) of the investment in new plant which is incurred during the project period applicable to the project site in which the investment is made.

(2) The credit allowed by this section shall not exceed one hundred twenty-five thousand dollars (\$125,000) in any one (1) taxable year.

(3) No credit is allowable under this section for a qualified investment in regard to which a credit under section [63-4403](#), Idaho Code, is available.

(4) The credit allowed by this section is limited to buildings and structural components of buildings related to new plant and building facilities.

63-4405. ADDITIONAL INCOME TAX CREDIT FOR NEW JOBS. [EFFECTIVE UNTIL DECEMBER 31, 2020] (1) Subject to the limitations of this chapter, for taxable years beginning on or after January 1, 2006, and before December 31, 2020, a taxpayer who has certified that the tax incentive criteria will be met within a project site during a project period shall, for the number of new employees earning more than a rate of twenty-four dollars and four cents (\$24.04) per hour worked, in lieu of the credit amount in subsection (2)(a) of section [63-3029F](#), Idaho Code, be

allowed the credit provided by this section. The number of new employees is the increase in the number of employees for the current taxable year over the greater of the following:

- (a) The number of employees for the prior taxable year; or
- (b) The average of the number of employees for the three (3) prior taxable years.

(2) The credit provided by this section shall be:

(a) One thousand five hundred dollars (\$1,500) for each new employee whose annual salary during the taxable year for which the credit is earned is greater than twenty-four dollars and four cents (\$24.04) per hour worked but equal to or less than an average rate of twenty-eight dollars and eighty-five cents (\$28.85) per hour worked;

(b) Two thousand dollars (\$2,000) for each new employee whose annual salary during the taxable year for which the credit is earned is greater than an average rate of twenty-eight dollars and eighty-five cents (\$28.85) per hour worked but equal to or less than an average rate of thirty-six dollars and six cents (\$36.06) per hour worked;

(c) Two thousand five hundred dollars (\$2,500) for each new employee whose annual salary during the taxable year for which the credit is earned is greater than an average rate of thirty-six dollars and six cents (\$36.06) per hour worked but equal to or less than an average rate of forty-three dollars and twenty-seven cents (\$43.27) per hour worked;

(d) Three thousand dollars (\$3,000) for each new employee whose annual salary during the taxable year for which the credit is earned is greater than an average rate of forty-three dollars and twenty-seven cents (\$43.27) per hour worked.

(3) The credit allowed by subsection (1) of this section shall apply only to employment primarily within the project site. No credit shall be earned unless such employee shall have performed such duties for the taxpayer for a minimum of nine (9) months during the taxable year for which the credit is claimed.

(4) The credit allowed by this section shall not exceed sixty-two and five-tenths percent (62.5%) of the tax liability of the taxpayer.

(5) Employees transferred from a related taxpayer or acquired from another taxpayer within the prior twelve (12) months shall not be included in the computation of the credit unless the transfer creates a net new job in Idaho.

63-4406.LIMITATIONS, AND OTHER PROVISIONS ON CREDITS AGAINST INCOME TAXES. (1) In addition to other needed rules, the state tax commission may promulgate rules prescribing:

(a) In the case of S corporations, partnerships, trusts or estates, a method of attributing a credit under this chapter to the shareholders, partners or beneficiaries in proportion to their share of the income from the S corporation, partnership, trust or estate; and

(b) The method by which the carryover of credits and the duty to recapture credits shall survive and be transferred in the event of reorganizations, mergers or liquidations.

(2) In the case of a unitary group of corporations filing a combined report under subsection (t) of section [63-3027](#), Idaho Code, credits against income tax

provided by sections [63-4403](#), [63-4404](#) and [63-4405](#), Idaho Code, earned by one (1) member of the group but not used by that member may be used by another member of the group, subject to the limitation in subsection (3) of this section, instead of carried over. For a combined group of corporations, credit carried forward may be claimed by any member of the group unless the member or members who earned the credit are no longer included in the combined group.

(3) The total of all credits allowed by sections [63-4403](#), [63-4404](#) and [63-4405](#), Idaho Code, together with any credits carried forward under subsection (4) of this section shall not exceed the amount of tax due under sections [63-3024](#), [63-3025](#) and [63-3025A](#), Idaho Code, after allowance for all other credits permitted by this chapter and the Idaho income tax act.

(4) If the credits exceed the limitation under subsection (3) of this section, the excess amount may be carried forward for a period that does not exceed:

(a) The next fourteen (14) taxable years in the case of credits allowed by sections [63-4403](#) and [63-4404](#), Idaho Code; or

(b) The next ten (10) taxable years in the case of credits allowed by section [63-4405](#), Idaho Code.

63-4407.RECAPTURE. (1) In the event that any person to whom a tax credit allowed by section [63-4403](#), [63-4404](#) or [63-4405](#), Idaho Code, fails to meet the tax incentive criteria, the full amount of the credit shall be subject to recapture by the commission.

(2) If, during any taxable year, an investment in new plant is disposed of, or otherwise ceases to qualify with respect to the taxpayer, prior to the close of the recapture period, recapture of the credit allowed by sections [63-4403](#) and [63-4404](#), Idaho Code, shall be determined for such taxable year in the same proportion and subject to the same provisions as an amount of credit required to be recaptured under section [63-3029B](#), Idaho Code.

(3) In the event that the employment level for which the credit allowed in section [63-4405](#), Idaho Code, is not maintained for the entire recapture period, recapture of the credit allowed in section [63-4405](#), Idaho Code, shall be determined for such taxable year in the same proportion as an amount of credit required to be recaptured under section [63-3029B](#), Idaho Code. This subsection shall not be construed to require that the required level of employment must be met by the same individual employees.

(4) Any amount subject to recapture is a deficiency in tax for the amount of the credit in the taxable year in which the disqualification first occurs and may be enforced and collected in the manner provided by the Idaho income tax act, provided however, that in lieu of the provisions of section [63-3068](#)(a), Idaho Code, the period of time within which the commission may issue a notice under section [63-3045](#), Idaho Code, in regard to an amount subject to recapture shall be the later of five (5) years after the end of the taxable year in which the project period ends or three (3) years after the end of the taxable year in which any amounts carried forward under section [63-4406](#), Idaho Code, expire.

63-4408.SALES AND USE TAX INCENTIVES -- REBATES -- RECAPTURE.[EFFECTIVE UNTIL DECEMBER 31, 2020] (1) For calendar years beginning on January 1, 2006, and ending on December 31, 2020, subject to the limitations of this chapter, a taxpayer who has certified that the tax incentive criteria will be met within the project site shall be entitled to receive a rebate of twenty-five percent (25%) of all sales and use taxes imposed by [chapter 36, title 63](#), Idaho Code, and that

the taxpayer or its contractors actually paid in regard to any property constructed, located or installed within the project site during the project period for that site.

(2) Upon filing of a written refund claim by the taxpayer entitled to the rebate, and subject to such reasonable documentation and verification as the commission may require, the rebate shall be paid by the commission as a refund allowable under section [63-3626](#), Idaho Code. A claim for rebate under this section must be filed on or before the last day of the third calendar year following the year in which the taxes sought to be rebated were paid or the right to the rebate is lost.

(3) Any rebate paid shall be subject to recapture by the commission:

(a) At one hundred percent (100%) in the event that the tax incentive criteria are not met at the project site during the project period, or

(b) In the event that the property is not used, stored or otherwise consumed within the project site for a period of sixty (60) consecutive full months after the property was placed in service, or

(c) In the event that the employment required in section [63-4402](#)(2)(j), Idaho Code, is not maintained for sixty (60) consecutive full months from the date the project period ends.

(d) Any recapture required by subsection (3)(b) or (3)(c) of this section shall be in the same proportion as an amount of credit required to be recaptured under section [63-3029B](#), Idaho Code.

(4) Any recapture amount due under this section shall be a deficiency in tax for the period in which the disqualification first occurs for purposes of section [63-3629](#), Idaho Code, and may be enforced and collected in the manner provided by the Idaho sales tax act, provided however, that in lieu of the provisions of section [63-3633](#), Idaho Code, the period of time within which the commission may issue a notice under section [63-3629](#), Idaho Code, in regard to an amount subject to recapture, shall be the later of five (5) years after the end of the taxable year, for income tax purposes, in which the project period ends.

(5) The rebate allowed by this section is limited to sales and use taxes actually paid by the taxpayer or its contractors

63-4409.ADMINISTRATION. The commission shall enforce the provisions of this chapter and may prescribe, adopt, and enforce reasonable rules relating to the administration and enforcement of those provisions, including the promulgation of rules relating to information necessary to certify that the incentive criteria have been or will be met. For the purpose of carrying out its duties to enforce or administer the provisions of this chapter, the commission shall have the powers and duties provided by sections [63-3038](#), [63-3039](#), [63-3042](#) through [63-3067](#), [63-3068](#), [63-3071](#), [63-3074](#) through [63-3078](#) and [63-217](#), Idaho Code.

CERTIFICATION FOR IDAHO'S SMALL EMPLOYER TAX INCENTIVES

Business name	Federal employer identification number
Business mailing address	Contact person and title
City, state and zip code	Telephone number of contact person

QUALIFYING FOR THE INCENTIVES

To claim the Idaho small employer incentives, you must certify that you have met, or will meet, the following tax incentive criteria at the project site during the project period:

1. Capital investment in new plant and building facilities of at least \$500,000,
2. Increased employment by at least 10 new employees who each earn at least \$19.23 per hour worked and receive health benefits, and
3. For new employment increases above the 10 new employees, the average wages of the additional new employees is at least \$15.50 per hour worked. See the instructions for who is included in this calculation.

The following information is required to certify that the proposed project will meet the small employer tax incentive criteria during the project period. Failure to provide the requested information may result in the Tax Commission denying any tax incentives claimed under the Idaho Small Employer Incentive Act.

1. Description of qualifying project

- 2. Estimated/actual start date of project.** The start date is the earlier of the date the first physical change to the project site occurs or the date new employees related to the project site are first employed in Idaho. The start date cannot be earlier than January 1, 2006.

- 3. Estimated/actual end date of project.** The project period cannot be longer than 10 years or end later than December 31, 2020.

- 4. Location of the project site(s).** Identify the street address for each site. If more than one location, identify the percent of the investment projected at each site once the project is completed.

- 5. Estimated/actual number of new jobs created during the project period.** For each year in the project period, enter the tax year followed by the number of new jobs created during that year.

Yr _____ # of jobs _____	Yr _____ # of jobs _____
Yr _____ # of jobs _____	Yr _____ # of jobs _____
Yr _____ # of jobs _____	Yr _____ # of jobs _____
Yr _____ # of jobs _____	Yr _____ # of jobs _____
Yr _____ # of jobs _____	Yr _____ # of jobs _____

Total # of jobs _____

6. **Estimated/actual cost of capital investments in new plant and building facilities.** For each year in the project period, list the actual or projected cost of capital investments in new plant and building facilities.

- a. **Qualified investment.** This is property that generally qualifies for the Idaho investment tax credit, including computers, equipment, furniture, etc. Enter the tax year followed by the cost of qualified investment placed in service during that year.

Yr _____ Amount _____	Yr _____ Amount _____
Yr _____ Amount _____	Yr _____ Amount _____
Yr _____ Amount _____	Yr _____ Amount _____
Yr _____ Amount _____	Yr _____ Amount _____
Yr _____ Amount _____	Yr _____ Amount _____

Total Amount _____

- b. **Buildings and their structural components, including parking garages.** Enter the tax year followed by the cost of buildings and structural components placed in service during that year.

Yr _____ Amount _____	Yr _____ Amount _____
Yr _____ Amount _____	Yr _____ Amount _____
Yr _____ Amount _____	Yr _____ Amount _____
Yr _____ Amount _____	Yr _____ Amount _____
Yr _____ Amount _____	Yr _____ Amount _____

Total Amount _____

7. **Total plant and building facilities cost by location**

CERTIFICATION BY TAXPAYER

Under penalties of perjury, I declare that to the best of my knowledge and belief this information is true, correct and complete.

Signature of officer	Date
Title	Phone number of officer

Mail to: TAX POLICY
IDAHO STATE TAX COMMISSION
PO BOX 36
BOISE ID 83722

or

Fax to: TAX POLICY
(208) 334-7844

Instructions for Idaho Form 89SE

GENERAL INSTRUCTIONS

You must file Form 89SE prior to claiming any incentives allowed by the Idaho Small Employer Incentive Act. A copy of Form 89SE must be attached to your Idaho income tax return for each tax year in which you are claiming or carrying over the incentives.

TAX INCENTIVE CRITERIA

To qualify you must certify that you have met, or will meet, the following tax incentive criteria at the project site during the project period:

- Invest at least \$500,000 in new plant and building facilities,
- Increase employment at the project site by at least 10 new employees, who each earn at least \$19.23 per hour, and
- If your new employment increased by more than the 10 new employees, these additional new employees must on average earn at least \$15.50 per hour worked during your tax year. Do not include the wages of employees earning more than \$48.08 per hour.

Project Site

Project site is where new plant and building facilities owned or leased by the taxpayer are located. The project site can be one or more geographic areas in Idaho, but only if 80% or more of the investment required is located at one of the areas.

Project Period

Project period is the period of time that begins at the earlier of:

- A physical change to the project site, or
- The first employment of new employees in Idaho who are related to the activities at the project site.

The project period cannot begin before January 1, 2006.

The project period ends when the facilities constituting the project are placed in service, but no longer than 10 years or later than December 31, 2020.

New Plant and Building Facilities

New plant and building facilities include property that meets either the definition of qualified investment for purposes of the investment tax credit (ITC) or is a building or a structural component of a building.

The property must be new property. Used property does not qualify. New property is property acquired or constructed by the taxpayer whose original use begins with the taxpayer after such acquisition or construction. Original use means the first use to which the property is put, whether or not that corresponds to the use of the property by the taxpayer. Property used by the taxpayer prior to its acquisition does not qualify.

New Employees

To qualify as a new employee for the tax incentive criteria, an employee must:

- Be employed primarily at the project site by the taxpayer,
- Have wages subject to Idaho income tax withholding,
- Be covered for Idaho unemployment insurance purposes,
- Be eligible to receive employer provided coverage under a health plan described in Idaho Code section 41-4703,
- Be employed on a regular full-time basis, and
- Meet the applicable wage requirements.

For this purpose, earnings include income subject to Idaho income tax withholding, but do not include stock options or restricted stock grants.

An existing employee of the taxpayer or a related taxpayer who is transferred to a new position at the project site will not qualify as a new employee, unless the transfer results in a net new job in Idaho.

Once reached, the net increase in employment at the project site must be maintained for the rest of the project period.

TAX INCENTIVES

If you have met, or will meet the tax incentive criteria, you are eligible to claim the tax incentives listed in the table on page 2.

RECAPTURE

If you certify you will meet the tax incentive criteria, and then fail to meet the tax incentive criteria, you will be required to recapture the full amount of any incentives claimed under the Act.

Recapture of all or a portion of the incentives may also be necessary if you:

- Dispose of an investment in new plant or building facilities or it ceases to qualify prior to it being held for five years from the date placed in service,
- Do not maintain the required level of employment for five years from the date the project period ends, or
- Do not use, store, or otherwise consume property that was allowed a sales tax exemption within the project site for a period of five full years from the date the property was placed in service.

SMALL EMPLOYER INCENTIVE ACT — Idaho Code, Title 63, Chapter 44			
Incentive	Credit Rate	Limitations	Carryover
Investment Tax Credit (SE-ITC) Form 83	3.75% on qualified investment that is placed in service during the project period anywhere in Idaho. Credit is in lieu of earning the 3% ITC.	Cannot exceed 62.5% of tax. Cannot exceed \$750,000 in any tax year	14 years
Real Property Improvement Tax Credit (SE-RPITC) Form 84	2.5% on investments in new plant and buildings and structural components of buildings that do not qualify for the ITC and are placed in service during the project period at the project site	Cannot exceed \$125,000 in any tax year	14 years
New Jobs Tax Credit (SE-NJTC) Form 85	Varying credit rate from \$1,500 to \$3,000 per qualifying new employee. Employee must earn a minimum of \$24.04 per hour to qualify, be employed primarily within the project site on a full-time basis, and work a minimum of nine months during the tax year. (See other requirements under New Employees.)	Cannot exceed 62.5% of tax	10 years
Sales Tax Rebate	25% rebate of all sales and use taxes that the taxpayer or its contractors actually paid in regard to new plant and building facilities property constructed, located or installed within the project site during the project period		
Growth Incentive Exemption	County Board of Equalization of county in which property that qualifies for the ITC or RPITC is located can exempt all or part of the value of the property from property tax.		

SPECIFIC INSTRUCTIONS

Instructions are for lines not fully explained on the form.

HEADING

Write your business name, address, federal employer identification number, contact person and title, and the contact person's telephone number in the space at the top of the form.

Line 1. Provide a detailed description of the project that qualifies for the incentives. Attach additional sheets as necessary.

Line 2. Enter the date the project started or will start. The start date cannot be earlier than January 1, 2006. The start date is the earlier of the date the first physical change to the project site is scheduled to occur or the date new employees related to the project site will be first employed in Idaho.

Line 3. Enter the date the project ended or is scheduled to end. This date cannot be longer than 10 years or later than December 31, 2020.

Line 4. For each project site, provide the street address. Include the percent of the new plant and building facilities

invested in the project that will be located at each separate location. The total of these percents must equal 100%.

Line 5. For each year in the project period, enter the actual or estimated number of new jobs that have been, or will be, created within the project site. If a year listed on the form does not fall within the project period, leave it blank.

Line 6. For each year in the project period, enter the actual or estimated costs of capital investment in new plant and building facilities located within the project site. If a year listed on the form does not fall within the project period, leave it blank.

List the cost of property that qualifies for the ITC in 6a. List the cost of buildings and their structural components that do not qualify for the ITC in 6b.

Line 7. For each location in your project site, identify the total actual or projected cost of new plant and building facilities. The total of these amounts should match the sum of the totals for lines 6a and 6b.

PROPERTY TAX INCENTIVES

Property Tax Exemption

Businesses that invest in new manufacturing facilities may receive partial or full property tax exemptions on new plants and building facilities and all personal property related thereto from local county commissioners.

To Qualify:

- Businesses must invest a minimum of \$3 million in new manufacturing facilities (Manufacturing defined as producing tangible personal property or intellectual property intended for ultimate sale at retail.)
- 80% of investment must be made at one location.

Note: Land is not included in the tax exemption.

TITLE 63

REVENUE AND TAXATION

CHAPTER 6

EXEMPTIONS FROM TAXATION

63-602NN. PROPERTY EXEMPT FROM TAXATION -- CERTAIN BUSINESS PROPERTY. (1) During tax year 2008, and each year thereafter, a board of county commissioners may declare that all or a portion of the market value of a defined project based on investment in new plant and building facilities meeting tax incentive criteria as defined in subsection (2) of this section shall be exempt from property taxation.

(2) As used in this section:

(a) "Defined project" means a written plan presented to the county commissioners by a taxpayer outlining projected investment in new plant for new plant and building facilities during a project period and located at a project site.

(b) "Investment in new plant" means investment in new plant and building facilities that are:

(i) Qualified investments; or

(ii) Buildings or structural components of buildings.

(c) "New plant and building facilities" means a manufacturing facility or facilities and personal property related thereto, producing tangible personal property or intellectual property intended for ultimate sale at retail, including related parking facilities, food service facilities, business office facilities and other building facilities directly related to the manufacturing business.

(d) "Project period" means the period of time beginning at the earlier of a physical change to the project site or the first employment of new employees or contractors located in Idaho who are related to the activities at the project site, but no earlier than January 1, 2008.

(e) "Project site" means an area or areas at which new plant and building facilities are located and at which the tax incentive criteria have been or will be met and which are either:

(i) A single geographic area located in this state at which the new plant and building facilities owned or leased by the taxpayer are located; or

(ii) One (1) or more geographic areas located in this state if eighty percent (80%) or more of the investment required in subsection (2)(h) of this section is made at one (1) of the areas.

(f) "Qualified investment" shall be as defined in section [63-3029B](#), Idaho Code.

(g) "Building or structural components of buildings" means real property improvements to land as defined in section [63-201](#)(11), Idaho Code, which are owned or leased by the taxpayer and located in Idaho within the boundaries of the project site.

(h) "Tax incentive criteria" means a taxpayer at a project site meeting the requirements of subparagraphs (i) and (ii) of this paragraph:

(i) During the project period, making capital investments in new plant of at least three million dollars (\$3,000,000) at the project site;

(ii) The taxpayer can demonstrate to the county that significant economic benefits will accrue to the county.

(3) The board of county commissioners may grant the property tax exemption for all or a portion of the market value of the defined project for a period of up to five (5) years. The agreement shall be considered a contract arrangement between the county and the taxpayer for the exemption time period granted by the board of county commissioners and the annual approval provision contained in subsection (3) of section [63-602](#), Idaho Code, shall not apply to the exemption provided in this section as long as the contract enumerated in this section is valid and in force and effect.

(4) Property exempted under this section shall not be included on any new construction roll prepared by the county assessor in accordance with section [63-301A](#), Idaho Code, until the exemption ceases.

(5) The legislature declares this exemption necessary and just.

LARGE BUSINESS PROPERTY TAX

Exemption

Businesses that invest a minimum of \$1 billion in capital improvements will receive a property tax exemption on all property in excess of \$400 million in value per year.

To Qualify:

- The property must be located in a single Idaho county.
- The property must be eligible for the federal investment tax credit, as defined in sections 46 (c) and 48 of the Internal Revenue Code subject to the limitations provided for certain regulated companies in section 46 (f) of the Internal Revenue Code and is not a motor vehicle under eight thousand pounds gross weight.
- The improvements, acquisition or construction must be real or personal property related plant and building facilities.

TITLE 63
REVENUE AND TAXATION
CHAPTER 45

NEW CAPITAL INVESTMENTS INCENTIVE ACT

63-4501.SHORT TITLE. This chapter shall be known and may be cited as the "Idaho New Capital Investments Incentive Act of 2008."

63-4502.TAX EXEMPTION FOR NEW CAPITAL INVESTMENTS. (1) For calendar years beginning on or after January 1, 2008, the net taxable value of all property of a taxpayer in excess of four hundred million dollars (\$400,000,000) located within a single county in Idaho shall be exempt from property taxation and any special assessment, but only to the extent that such property constitutes a new capital investment as defined in subsection (2) of this section.

(2) For purposes of this section, the following definitions shall apply:

(a) "New capital investment" means an investment of at least one billion dollars (\$1,000,000,000) made during the project period by the acquisition, construction, improvement or installation of real or personal property related to new plant and building facilities at a project site located within the county referred to in subsection (1) of this section.

(b) "New plant and building facilities" means:

(i) Qualified investments as defined in section [63-3029B](#), Idaho Code; or

(ii) Buildings or structural components of buildings.

(c) "Project period" means the period of time beginning at the first inspection of the permanent building structure following issuance of the building permit, but in no case earlier than January 1, 2008, and ending no later than seven (7) years after the calendar year in which such inspection takes place.

(d) "Project site" means an area or areas at which the new plant and building facilities described in subsection (2)(b) of this section are located.

(3) The property included in the calculation for purposes of determining investment value shall include all real property owned, and all personal property owned, leased or rented. With respect to leased or rented personal property, only that portion of the property for which a taxpayer is contractually liable for payment of property taxes thereon, shall be included in the calculation of the investment.

(4) Notwithstanding the exemption provided in subsection (4) of section [63-3029B](#), Idaho Code, no other exemption from property tax or any special assessment provided by the statutes of this state shall be applicable to any property described in subsection (2) of this section with respect to a year in which the incentives set forth in subsection (1) of this section apply to any of the same property.

(5) Property subject to the provisions of this section shall not be included on the property roll or the new construction roll prepared by the county assessor in accordance with section [63-301](#) or [63-301A](#), Idaho Code, respectively.

(6) The state tax commission shall adopt all rules that may be necessary to implement the provisions of this section.

LARGE EMPLOYER

Property Tax Cap

Businesses that employ at least 1,500 people within a single Idaho county may receive a property tax exemption on property values in excess of \$800 million.

To qualify:

- The business must make a yearly capital investment of at least \$25 million within that county.

TITLE 63
REVENUE AND TAXATION
CHAPTER 6
EXEMPTIONS FROM TAXATION

63-602HH. PROPERTY EXEMPT FROM TAXATION -- SIGNIFICANT CAPITAL INVESTMENTS. (1) The net taxable value of all property of a taxpayer in excess of eight hundred million dollars (\$800,000,000) located within a single county in Idaho shall be exempt from property taxation and any special assessment.

(2) The property included in the calculation of the exemption set forth in this section shall include all real property owned, and all personal property owned, leased, or rented that would otherwise be subject to property tax; provided however, with respect to leased or rented personal property, only that portion of the property which a taxpayer is contractually liable for payment of property taxes thereon shall be included in the calculation of the exemption.

(3) Leased or rented personal property, included in the calculation of the exemption provided by this section shall not be assessable against the owner of such property.

(4) The exemption set forth in this section shall apply first to owned real and personal property and, if exhausted, shall then apply to leased or rented personal property.

(5) The taxpayer owning, leasing, or renting the property included in the calculation of the exemption shall designate the property to which the exemption applies.

(6) The exemption set forth in this section shall not be available to any taxpayer with respect to a given year who, in the immediately preceding calendar year, failed to make significant capital investments of at least twenty-five million dollars (\$25,000,000), by the acquisition or improvement of real or personal property located within the county referred to in subsection (1) of this section.

(7) The exemption set forth in this section shall not be available to any taxpayer with respect to a given year who, as of the first day of such year, did not employ or engage on a regular full-time basis, or the equivalent thereof, at least one thousand five hundred (1,500) workers within the county referred to in subsection (1) of this section.

(8) Except for the exemption provided for in subsection (4) of section 63-3029B, Idaho Code, no other exemption from property tax or any special assessment provided by the statutes of this state shall be applicable to any property described in subsection (2) of this section with respect to a year in which the exemption set forth in subsection (1) of this section applies to any of the same property.

(9) Property exempted under this section shall not be included on any new construction roll prepared by the county assessor in accordance with section 63-301A, Idaho Code.

(10) The state tax commission shall adopt all rules that may be necessary to implement this section.

PROPERTY TAX EXEMPTION

100% Property Tax Exemption

Business inventory and registered motor vehicles, vessels, and aircraft are exempt from property tax.

Examples of property that is exempted:

- Livestock
- Goods temporarily stored in Idaho for shipment elsewhere
- Required pollution control equipment
- Household belongings and clothing
- Improvements on residential property/farms never occupied
 - This exemption applies to improvements to single family residences, residential townhouses, or residential condominium units until they become occupied. Once the above are occupied, the tax exemption no longer applies.
 - The nonresidential portion of an improvement to real property that is used or is to be used for residential and nonresidential purposes does not qualify for the exemption provided by this section. If an improvement contains multiple residential units, each such unit shall lose the exemption provided in this section when it becomes occupied.

TITLE 63
REVENUE AND TAXATION
CHAPTER 6
EXEMPTIONS FROM TAXATION

63-602W. BUSINESS INVENTORY EXEMPT FROM TAXATION -- BUSINESS INVENTORY THAT IS A COMPONENT OF REAL PROPERTY THAT IS A SINGLE FAMILY DWELLING. The following property is exempt from property taxation: business inventory. For the purpose of this section, "business inventory" means all items of tangible personal property or other property described as:

- (1) All livestock, fur-bearing animals, fish, fowl and bees.
- (2) All nursery stock, stock-in-trade, merchandise, products, finished or partly finished goods, raw materials, and all forest products subject to the provisions of chapter 17, title 63, Idaho Code, supplies, containers and other personal property which is held for sale or consumption in the ordinary course of the taxpayer's manufacturing, farming, wholesale jobbing, or merchandising business.
- (3) Residential improvements never occupied. Once residential improvements are occupied as defined in section 63-317, Idaho Code, they shall be subject to the tax provided by section 63-317, Idaho Code. The provisions of section 63-602Y, Idaho Code, shall not apply to the exemption provided by this subsection. The exemption provided by this subsection applies only to improvements to real property, and only until first occupied. For purposes of this section, the term "residential improvements" means only:
 - (a) Single family residences; or
 - (b) Residential townhouses; or
 - (c) Residential condominium units.

The nonresidential portion of an improvement to real property that is used or is to be used for residential and nonresidential purposes does not qualify for the exemption provided by this section. If an improvement contains multiple residential units, each such unit shall lose the exemption provided in this section when it becomes occupied.

TITLE 63
REVENUE AND TAXATION
CHAPTER 6
EXEMPTIONS FROM TAXATION

63-602P. PROPERTY EXEMPT FROM TAXATION -- FACILITIES FOR WATER OR AIR POLLUTION CONTROL. (1) The following property is exempt from taxation: facilities, installations, machinery or equipment, attached or unattached to real property, and designed, installed and utilized in the elimination, control or prevention of water or air pollution, or, in event such facilities, installations, equipment or machinery shall also serve other beneficial purposes and uses, such portion of the assessed valuation thereof as may reasonably be calculated to be necessary for and devoted to elimination, control or prevention of water or air pollution. The state tax commission or county assessor shall determine such exempt portion, and shall not include as exempt any portion of any facilities which have value as the specific source of marketable byproducts.

(2) If any water corporation, as defined by section 61-125, Idaho Code, regulated by the Idaho public utilities commission is or has been ordered by the state board of health or the Idaho public utilities commission to install equipment designed and utilized in the elimination, control or prevention of water pollution, the Idaho public utilities commission shall notify the Idaho state tax commission of the percentage such property bears to the total

invested plant of the company and said portion shall be exempt from property taxation. Said percentage reported to the Idaho state tax commission by the Idaho public utilities commission may be contested by any person or party at a public hearing held before the Idaho state tax commission.

From <http://www3.state.id.us/cgi-bin/newidst?sctid=630060002BB.K>:

TITLE 63
REVENUE AND TAXATION
CHAPTER 6

EXEMPTIONS FROM TAXATION

63-602BB. PARTIAL EXEMPTION FOR REMEDIATED LAND. (1) During the tax year 1997 and each year thereafter, a site as defined in section 39-7203, Idaho Code, and qualifying under chapter 72, title 39, Idaho Code, shall be eligible for property tax exemption not to exceed seven (7) years.

(2) "Remediated value" shall mean market value for assessment purposes of the land on January 1, less the market value for assessment purposes of the land on the January 1 prior to the year in which the remediation was completed.

(3) The exemption shall amount to fifty percent (50%) of the remediated land value. The exempted value assessed under this formula shall remain constant throughout the period of the exemption.

(4) The exemption allowed by this section may be granted only if:

- (a) The covenant not to sue as provided in section 39-7207, Idaho Code, remains in full force and effect for the entire period of exemption;
- (b) The site remains in the possession of the owner for the entire exemption period.

(5) The exemption allowed by this section may be rescinded if:

- (a) The covenant not to sue as provided in section 39-7207, Idaho Code, is rescinded by the department;
- (b) The site is transferred to a new owner.

(6) The owner need only make application for the exemption described in this section once over the course of the seven (7) year period.

(7) No owner of a site shall be granted the exemption provided in this section if said site has been:

- (a) Previously granted the exemption provided in this section regardless of whether the entire seven (7) years of the exemption have been used;
- (b) Denied by the department as a qualifying site pursuant to chapter 72, title 39, Idaho Code.

(8) The legislature declares this exemption to be necessary and just.

INCOME TAX INCENTIVES

Up To \$2000 New Employee Training Reimbursement

Businesses may be reimbursed up to \$2,000 for training costs for each new job in select rural counties. Each new job must pay at least \$12 an hour and include benefits created by companies qualifying for Idaho's Workforce Development Training Fund program.

TITLE 72

WORKER'S COMPENSATION AND RELATED LAWS -- INDUSTRIAL COMMISSION

CHAPTER 13

EMPLOYMENT SECURITY LAW

72-1336.ADVISORY BODY AND SPECIAL COMMITTEES. (1) The governor shall appoint a workforce development council in accordance with section 111 of the federal workforce investment act of 1998, as amended (29 U.S.C. 2821) and federal regulations promulgated thereunder. Members of the body shall serve at the pleasure of the governor and shall be reimbursed for ordinary and actual expenses. The governor shall prescribe the duties and functions of the workforce development council which shall include, but not be limited to, the following:

(a) To serve as an advisory body to the department on matters related to workforce development policy and programs;

(b) To approve and provide oversight of department expenditures from the employment security special administration fund established under section [72-1347A](#), Idaho Code;

(c) To develop and provide oversight of procedures, criteria and performance measures for the workforce development training fund established under section [72-1347B](#), Idaho Code; and

(d) To serve as the state workforce investment board in accordance with section 111 of the federal workforce investment act of 1998, as amended, and federal regulations promulgated thereunder.

(2) The director may appoint special committees in connection with the administration of this chapter.

TITLE 72

WORKER'S COMPENSATION AND RELATED LAWS -- INDUSTRIAL COMMISSION

CHAPTER 13

EMPLOYMENT SECURITY LAW

72-1347B.WORKFORCE DEVELOPMENT TRAINING FUND. (1) There is established in the state treasury a special trust fund, separate and apart from all other public funds of this state, to be known as the workforce development training fund, hereinafter "training fund." Except as provided herein, all proceeds from the training tax defined in subsection (4) of this section shall be paid into the training fund. The state treasurer shall be the custodian of the training fund and shall invest said moneys in accordance with law. Any interest earned on the moneys in the training fund shall be deposited in the training fund. Moneys in the training fund shall be disbursed in accordance with the directions of the director. In any month when the unencumbered balance in the training fund exceeds six million dollars (\$6,000,000), the excess amount over six million dollars (\$6,000,000) shall be transferred to the employment security reserve fund,

section [72-1347A](#), Idaho Code. For the purposes of this subsection (1), the unencumbered balance in the training fund is the balance in such fund reduced by the sum of:

(a) The amounts that have been obligated pursuant to fully-executed workforce development training fund contracts;

(b) The amounts that have been obligated pursuant to letters of intent for proposed job training projects; and

(c) Any administrative costs related to the training fund that are due and payable.

(2) All moneys in the training fund are perpetually appropriated to the director for expenditure in accordance with the provisions of this section. The purpose of the training fund is to provide or expand training and retraining opportunities in an expeditious manner that would not otherwise exist for Idaho's workforce. The training fund is intended to supplement, but not to supplant or compete with, money available through existing training programs. The moneys in the training fund shall be used for the following purposes:

(a) To provide training for skills necessary for specific economic opportunities and industrial expansion initiatives;

(b) To provide training to upgrade the skills of currently employed workers at risk of being permanently laid off;

(c) For refunds of training taxes erroneously collected and deposited in the workforce training fund;

(d) For all administrative expenses incurred by the department associated with the collection of the training tax and any other administrative expenses associated with the training fund.

(3) Expenditures from the training fund for purposes authorized in paragraphs (a) and (b) of subsection (2) of this section shall be approved by the director, and the director of the department of commerce, in consultation with the office of the governor, based on procedures, criteria and performance measures established by the council appointed pursuant to section [72-1336](#), Idaho Code. The activities funded by the training fund will be coordinated with similar activities funded by the state division of professional-technical education. Expenditures from the training fund for purposes authorized in paragraphs (c) and (d) of subsection (2) of this section shall be approved by the director. The director shall pay all approved expenditures as long as the training fund has a positive balance. The council shall report annually to the governor and the joint finance-appropriations committee the commitments and expenditures made from the training fund in the preceding fiscal year and the results of the activities funded by the training fund.

(4) A training tax is hereby imposed on all covered employers required to pay contributions pursuant to section [72-1350](#), Idaho Code, with the exception of deficit employers who have been assigned a taxable wage rate from rate class six pursuant to section [72-1350](#), Idaho Code. The training tax rate shall be equal to three percent (3%) of the taxable wage rate then in effect for each eligible, standard-rated and deficit employer. The training tax shall be due and payable at the same time and in the same manner as contributions. This subsection is repealed effective January 1, 2012, unless, prior to that date, the Idaho legislature approves the continuation of this subsection by repeal of this sunset clause.

(5) The provisions of this chapter which apply to the payment and collection of contributions also apply to the payment and collection of the training tax, including the same calculations, assessments, method of payment, penalties, interest, costs, liens, injunctive relief, collection procedures and refund procedures. In the administration of the provisions of this section, the director is granted all rights, authority, and prerogatives granted under the provisions of this chapter. Moneys collected from an employer delinquent in paying contributions, reserve taxes and the training tax shall first be applied to any penalty and interest imposed pursuant to the provisions of this chapter and shall then be applied pro rata to delinquent contributions to the employment security fund, section [72-1346](#), Idaho Code, delinquent reserve taxes to the reserve fund, section [72-1347A](#), Idaho Code, and delinquent training taxes to the training fund. Any interest and penalties collected pursuant to this subsection shall be paid into the state employment security administrative and reimbursement fund, section [72-1348](#), Idaho Code, and any interest or penalties refunded under this subsection shall be paid out of that same fund. Training taxes paid pursuant to this section shall not be credited to the employer's experience rating account and may not be deducted by any employer from the wages of individuals in its employ. All training taxes shall be deposited in the clearing account of the employment security fund, section [72-1346](#), Idaho Code, for clearance only and shall not become part of such fund. After clearance, the moneys shall be deposited in the training fund established in subsection (1) of this section.

(6) Administrative costs related to the training fund shall be paid from the training fund in accordance with subsection (3) of this section.

New Jobs Income Tax Credit

\$1,000 Tax Credit

Businesses may earn a \$1,000 tax credit for each additional employee added that works a minimum of 20 hours per week making at least \$15.50 an hour and who are eligible to receive employer-provided coverage under an accident or health plan. The credit may be carried forward up to three years.

\$500 Tax Credit

Businesses may earn a \$500 tax credit for adding new jobs in the production, assembly, fabrication, manufacturing, or processing of natural resources. **This credit cannot be combined with the \$1,000 new jobs credit.**

TITLE 63
REVENUE AND TAXATION
CHAPTER 30
INCOME TAX

63-3029F. SPECIAL CREDIT AVAILABLE -- NEW EMPLOYEES. (1) Any taxpayer shall be allowed a credit, in an amount determined under subsection (2) of this section, against the tax imposed by this chapter, other than the tax imposed by section 63-3082, Idaho Code, for any taxable year during which the taxpayer's employment of new employees, as defined under section 63-3029E(1), Idaho Code, increases above the taxpayer's average employment for either: (a) the prior taxable year, or (b) the average of three (3) prior taxable years, whichever is higher. No credit shall be allowed under this section unless the number of new employees equals or exceeds one (1) person.

(2) (a) The credit authorized in subsection (1) of this section shall be:

(i) Five hundred dollars (\$500) per new employee described in subsection (2)(d) of this section; or

(ii) One thousand dollars (\$1,000) per new employee described in subsection (2)(c) of this section, but not both.

(b) The total credit allowed by this section shall not exceed three and one-quarter percent (3.25%) of net income from the taxpayer's corporate, proprietorship, partnership, small business corporation or limited liability company trade or business in which the employment occurred. Additionally, the total amount of this and all other credits allowed under this chapter except for the credits allowed under section 63-3029, Idaho Code, shall not exceed fifty percent (50%) of the tax liability of the taxpayer. The tax liability of the taxpayer shall be the tax after deducting the credit allowed by section 63-3029, Idaho Code.

(c) The one thousand dollar (\$1,000) credit shall apply to an employee who, in the calendar year ending during the taxable year for which the credit is claimed, received annual earnings at an average rate of fifteen dollars and fifty cents (\$15.50) or more per hour worked and who, during such calendar year, was eligible to receive employer provided coverage under an accident or health plan described in section 105 of the Internal Revenue Code.

(d) The five hundred dollar (\$500) credit shall apply to an employee not described in subsection (2)(c) of this section and who is employed in a revenue-producing enterprise as defined in section 63-3029E, Idaho Code.

(3) If the sum of the credit carryovers from the credit allowed by subsection (2) of this section and the amount of credit for the taxable year from the credit allowed by subsection (2) of this section exceed the limitation imposed by subsection (2) of this section for the current taxable year, the excess attributable to the current taxable year's credit shall be a credit carryover to the three (3) succeeding taxable years. The entire amount of unused credit shall be carried forward to the earliest of the succeeding years, wherein the oldest available unused credit shall be used first, so long as the employment level for which the credit was granted is still maintained.

3% INVESTMENT

Tax Credit

Businesses that make qualifying new investments may earn an income tax credit. This credit can offset up to 50% of a company's state income tax liability and may be carried forward up to 14 years.

To qualify:

- Qualifying property is new or used depreciable property. Idaho adopted the definition of qualifying property found in Internal Revenue Code (IRC) Sections 46(c) and 48 in effect prior to 1986 for this credit.
- The depreciable life must be three years or more.
- Property not used in Idaho and vehicles under 8,000 pounds gross weights do not qualify.

Property used in a trade or business that does qualify includes:

1. Tangible personal property--machinery and equipment.
2. Other tangible property--property used as an integral part of manufacturing, production, extraction, or furnishing transportation, communications, or utility services, or research facilities and bulk storage facilities used in connection with those businesses.
3. Elevators and escalators.
4. Single purpose agricultural or horticultural structures, such as a commercial greenhouse or a milking barn.
5. Certain qualified timber property.
6. Petroleum storage facilities.

Property that does not qualify includes the following:

1. Buildings and their structural components.
2. Property used primarily for lodging. This is an apartment house or other facility where sleeping accommodations are provided and rented. The rental period is normally more than 30 days. (Tangible personal property used in a facility that rents rooms for a period of less than 30 days does qualify.)
3. Property expensed under Section 179, IRC.
4. Property subject to 60-month amortization.
5. Used property:
 - a. not acquired by purchase; or
 - b. in excess of \$150,000; or
 - c. acquired from a related person. This includes a person acquiring property they used prior to the acquisition.
6. Property that is either nondepreciable or has a useful life of fewer than three years.
7. The portion of property that is for personal use.
8. Horses.

Questions? Contact the Idaho Tax Commission www.tax.idaho.gov (208)334-7660

Qualified Investment Exemption:

- This exemption may be applied in lieu of the investment tax credit. A two-year exemption from property tax on qualified personal property is available only if a loss was incurred in the second preceding tax year in which the property is placed in service. The loss must have been computed without regard to any net operating loss carry over or carry back.

TITLE 63

REVENUE AND TAXATION

CHAPTER 30

INCOME TAX

63-3029B.INCOME TAX CREDIT FOR CAPITAL INVESTMENT. (1) At the election of the taxpayer there shall be allowed, subject to the applicable limitations provided herein as a credit against the income tax imposed by [chapter 30, title 63](#), Idaho Code, an amount equal to the sum of:

- (a) The tax credit carryovers; and
- (b) The tax credit for the taxable year.

(2) The maximum allowable amount of the credit for the current taxable year shall be three percent (3%) of the amount of qualified investments made during the taxable year.

(3) As used in this section "qualified investment" means certain property which:

(i) Is eligible for the federal investment tax credit, as defined in sections 46(c) and 48 of the Internal Revenue Code subject to the limitations provided for certain regulated companies in section 46(f) of the Internal Revenue Code and is not a motor vehicle under eight thousand (8,000) pounds gross weight; or

(ii) Is qualified broadband equipment as defined in section [63-3029I](#), Idaho Code; and

(b) Is acquired, constructed, reconstructed, erected or placed into service after December 31, 1981; and

(c) Has a situs in Idaho.

(4) (a) For qualified investments placed in service in 2003 and thereafter, a taxpayer, other than a person whose rate of charge or rate of return, or both, is regulated or limited according to federal or state law, may elect, in lieu of the credit provided by this section, a two (2) year exemption from all taxes on personal property on the qualified investment. The exemption from personal property tax shall apply to the year the election is filed as provided in this section and the immediately following year. The election provided by this paragraph is available only to a taxpayer whose Idaho taxable income, before application of net operating losses carried back or forward, in the second preceding taxable year in which the investment is placed in service is negative.

(b) The election shall be made in the form prescribed by the state tax commission and shall include a specific description and location of all qualified investments placed into service and located in the jurisdiction of the assessing authority, a designation of the specific assets for which the exemption is claimed, and such other information as the state tax commission may require. The election must be made by including the election form with the listing of personal property required by section [63-302](#), Idaho Code, or, in the case of operating property assessed under [chapter 4, title 63](#), Idaho Code, with the operator's

statement required by section [63-404](#), Idaho Code. Once made the election is irrevocable. If no election is made, the election is not otherwise available. A copy of the election form must also be attached to the original income tax return due for the taxable year in which the claim was made.

(c) The state tax commission and the various county assessors are authorized to exchange information as necessary to properly coordinate the exemption provided in this subsection. Information disclosed to county officials under this subsection may be used only to determine the validity or amount of a taxpayer's entitlement to the exemption provided in this section, and is not otherwise subject to public disclosure as provided in section [9-340D](#), Idaho Code.

(d) In the event that an investment in regard to which the election under this subsection was made is determined by the state tax commission:

- (i) To not be a qualified investment, or
- (ii) To have ceased to qualify during the recapture period, or
- (iii) To be otherwise not qualified for the election,

the taxpayer shall be subject to recapture of the property tax benefit.

(e) The benefit to be recaptured in subsection (4)(d) of this section shall be computed in the manner required in subsection (7) of this section and such recapture amount shall be subject to assessment in the same manner as a deficiency in tax under this chapter. For purposes of calculating the recapture, the property tax benefit shall be:

(i) In the case of locally assessed property located in a single county or nonapportioned centrally assessed property, the market value of exempted property times the average property tax levy for that county in the year or years for which the exemption was claimed.

(ii) In the case of other centrally assessed property and property located in more than one (1) county, the market value of exempted property times the average urban property tax levy of the state as determined by the state tax commission in each of the years for which the exemption was claimed.

(f) In the event that a recapture of the exemption is required under this subsection (4), the person claiming the exemption shall report the event to the state tax commission in the manner the state tax commission may by rule require. The report shall be due no later than the due date of that person's income tax return under this chapter for the taxable year in which the event occurs. The recapture amount is due and payable with the report. Any amount of recapture not paid is a deficiency within the meaning of section [63-3044](#), Idaho Code.

(g) All moneys collected by the state tax commission pursuant to this subsection, which amounts are continuously appropriated for this purpose, shall be deposited with the state treasurer and placed in the state refund account, as provided by section [63-3067](#), Idaho Code, to be remitted to the county within which the property was located that was not a qualified investment or ceased to qualify during the recapture period. The county shall distribute this remittance to all appropriate taxing districts based on the proportion each appropriate taxing district's levy is to the total of all the levies of the taxing districts for the tax code area where the property was located for each year the exemption was granted. If any taxing district is dissolved or disincorporated, the proportionate share of the remittance to be distributed to that taxing district shall be deposited in the county current expense fund.

(h) For purposes of the limitation provided by section [63-802](#), Idaho Code, moneys received pursuant to this subsection shall be treated as property tax revenue by taxing districts.

(5) Notwithstanding the provisions of subsections (1) and (2) of this section, the amount of the credit allowed shall not exceed fifty percent (50%) of the tax liability of the taxpayer. The tax liability of the taxpayer shall be the tax after deducting the credit allowed by section [63-3029](#), Idaho Code.

(6) If the sum of credit carryovers from the credit allowed by subsection (2) of this section and the amount of credit for the taxable year from the credit allowed by subsection (2) of this section exceed the limitation imposed by subsection (5) of this section for the current taxable year, the excess attributable to the current taxable year's credit shall be an investment credit carryover to the fourteen (14) succeeding taxable years. In the case of a group of corporations filing a combined report under section [63-3027](#), Idaho Code, or sections [63-3027B](#) through [63-3027E](#), Idaho Code, credit earned by one (1) member of the group but not used by that member may be used by another member of the group, subject to the provisions of subsection (5) of this section, instead of carried over. The entire amount of unused credit shall be carried forward to the earliest of the succeeding years, wherein the oldest available unused credit shall be used first, so long as the qualified investment property for which the unused credit was granted still maintains Idaho situs. For a combined group of corporations, credit carried forward may be claimed by any member of the group unless the member who earned the credit is no longer included in the combined group.

(7) Any recapture of the credit allowed by subsection (2) of this section on property disposed of or ceasing to qualify, prior to the close of the recapture period, shall be determined according to the applicable recapture provisions of the Internal Revenue Code. In the case of a unitary group of corporations, the increase in tax due to the recapture of investment tax credit must be reported by the member of the group who earned the credit regardless of which member claimed the credit against tax.

(8) For the purpose of determining whether property placed in service is a "qualified investment" as defined in subsection (3) of this section, the provisions of section 49 of the Internal Revenue Code shall be disregarded. "Qualified investment" shall not include any amount for which a deduction is allowed under section 168(k) or section 179 of the Internal Revenue Code in computing taxable income.

(9) For purposes of this section, property has a situs in Idaho during a taxable year if it is used in Idaho at any time during the taxable year. Property not used in Idaho during a taxable year does not have a situs in Idaho in the taxable year during which the property is not used in Idaho or in any subsequent taxable year. No credit or carryover of credit is permitted under this section if the credit or carryover relates to property that does not have a situs in Idaho during the taxable year for which the credit or carryover is claimed. The Idaho situs of property must be established by records maintained by the taxpayer which are created reasonably contemporaneously with the use of the property.

(10) In the case of property used both in and outside Idaho, the taxpayer, electing to claim the credit provided in this section, must elect to compute the qualified investment in property with a situs in Idaho for all such investments first qualifying during that year in one (1), but only one (1), of the following ways:

(a) The amount of each qualified investment in a specific asset shall be separately computed based on the percentage of the actual use of the property in Idaho by using a measure of the use, such as total miles or total machine hours, that most accurately reflects the beneficial use during the taxable year in which it is first acquired, constructed, reconstructed, erected or placed into service; provided, that the asset is placed in service more than ninety (90) days before the end of the taxable year. In the case of assets acquired, constructed, reconstructed, erected or placed into service within ninety (90) days prior to the end of the taxable year in which the investment first qualifies, the measure of the use of that asset within Idaho for that year shall be based upon the percentage of use in Idaho during the first ninety (90) days of use of the asset;

(b) The investment in qualified property used both inside and outside Idaho during the taxable year in which it is first acquired, constructed, reconstructed, erected or placed into service shall be multiplied by the percent of the investment that would be included in the numerator of the Idaho property factor determined pursuant to section [63-3027](#), Idaho Code, for the same year.

(11) Only for the purposes of subsections (3)(a) and (8) of this section, references to sections of the "Internal Revenue Code" mean the sections referred to as they existed in the Internal Revenue Code of 1986 prior to November 5, 1990.

NET OPERATING LOSS

Deductions

Idaho offers a net operating loss income tax provision for losses up to \$100,000 per tax year. Losses may be carried back for two years, or, if not absorbed in those two years, the remainder may be carried forward for up to 20 years.

TITLE 63
REVENUE AND TAXATION
CHAPTER 30
INCOME TAX

63-3022. ADJUSTMENTS TO TAXABLE INCOME. The additions and subtractions set forth in this section, and in sections 63-3022A through 63-3022Q, Idaho Code, are to be applied to the extent allowed in computing Idaho taxable income:

(a) Add any state and local taxes, as defined in section 164 of the Internal Revenue Code and, measured by net income, paid or accrued during the taxable year adjusted for state or local tax refunds used in arriving at taxable income.

(b) Add the net operating loss deduction used in arriving at taxable income.

(c) (1) A net operating loss for any taxable year commencing on and after January 1, 2000, shall be a net operating loss carryback not to exceed a total of one hundred thousand dollars (\$100,000) to the two (2) immediately preceding taxable years. Any portion of the net operating loss not subtracted in the two (2) preceding years may be subtracted in the next twenty (20) years succeeding the taxable year in which the loss arises in order until exhausted. The sum of the deductions may not exceed the amount of the net operating loss deduction incurred. At the election of the taxpayer, the two (2) year carryback may be foregone and the loss subtracted from income received in taxable years arising in the next twenty (20) years succeeding the taxable year in which the loss arises in order until exhausted. The election shall be made as under section 172(b)(3) of the Internal Revenue Code. An election under this subsection must be in the manner prescribed in the rules of the state tax commission and once made is irrevocable for the year in which it is made. The term "income" as used in this subsection (c) means Idaho taxable income as defined in this chapter as modified by section 63-3021(b)(2), (3) and (4), Idaho Code.

(2) Net operating losses incurred by a corporation during a year in which such corporation did not transact business in Idaho or was not included in a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, may not be subtracted. However, if at least one (1) corporation within a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, was transacting business in Idaho during the taxable year in which the loss was incurred, then the net operating loss may be subtracted. Net operating losses incurred by a person, other than a corporation, in activities not taxable by Idaho may not be subtracted.

(d) In the case of a corporation, add the amount deducted under the provisions of sections 243(a) and (c), 244, 245 and 246A of the Internal Revenue Code (relating to dividends received by corporations) as limited by section 246(b)(1) of said code.

(e) In the case of a corporation, subtract an amount determined under section 78 of the Internal Revenue Code to be taxable as dividends.

(f) Subtract the amount of any income received or accrued during the taxable year which is exempt from taxation by this state, under the provisions of any other law of this state or a law of the United States, if not previously subtracted in arriving at taxable income.

(g) For the purpose of determining the Idaho taxable income of the beneficiary of a trust or of an estate:

(1) Distributable net income as defined for federal tax purposes shall be

corrected for the other adjustments required by this section.

(2) Net operating losses attributable to a beneficiary of a trust or estate under section 642 of the Internal Revenue Code shall be a deduction for the beneficiary to the extent that income from the trust or estate would be attributable to this state under the provisions of this chapter.

(h) In the case of an individual who is on active duty as a full-time officer, enlistee or draftee, with the armed forces of the United States, which full-time duty is or will be continuous and uninterrupted for one hundred twenty (120) consecutive days or more, deduct compensation paid by the armed forces of the United States for services performed outside this state. The deduction is allowed only to the extent such income is included in taxable income.

(i) In the case of a corporation, including any corporation included in a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, add any capital loss deducted which loss was incurred during any year in which such corporation did not transact business in Idaho. However, do not add any capital loss deducted if a corporation, including any corporation in a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, was transacting business in Idaho during the taxable year in which the loss was incurred. In the case of persons, other than corporations, add any capital loss deducted which was incurred in activities not taxable by Idaho at the time such loss was incurred. In computing the income taxable to an S corporation or partnership under this section, deduction shall not be allowed for a carryover or carryback of a net operating loss provided for in subsection (c) of this section or a capital loss provided for in section 1212 of the Internal Revenue Code.

(j) In the case of an individual, there shall be allowed as a deduction from gross income either (1) or (2) at the option of the taxpayer:

(1) The standard deduction as defined in section 63, Internal Revenue Code.

(2) Itemized deductions as defined in section 63 of the Internal Revenue Code except state or local taxes measured by net income and general sales taxes as either is defined in section 164 of the Internal Revenue Code.

(k) Add the taxable amount of any lump sum distribution excluded from gross income for federal income tax purposes under the ten (10) year averaging method. The taxable amount will include the ordinary income portion and the amount eligible for the capital gain election.

(l) Deduct any amounts included in gross income under the provisions of section 86 of the Internal Revenue Code relating to certain social security and railroad benefits.

(m) In the case of a self-employed individual, deduct the actual cost of premiums paid to secure worker's compensation insurance for coverage in Idaho, if such cost has not been deducted in arriving at taxable income.

(n) In the case of an individual, deduct the amount contributed to a college savings program pursuant to chapter 54, title 33, Idaho Code, but not more than four thousand dollars (\$4,000) per tax year. If the contribution is made on or before April 15, 2001, it may be deducted for tax year 2000 and an individual can make another contribution and claim the deduction according to the limits provided in this subsection during 2001 for tax year 2001, as long as the contribution is made on or before December 31, 2001.

(o) In the case of an individual, add the amount of a nonqualified withdrawal from an individual trust account or savings account established pursuant to chapter 54, title 33, Idaho Code, less any amount of such nonqualified withdrawal included in the individual's federal gross income pursuant to section 529 of the Internal Revenue Code.

5% RESEARCH AND DEVELOPMENT

5% Research and Development Income Tax Credit

Businesses conducting basic and qualified research may earn an income tax credit of 5% that may be carried forward up to 14 years.

3% Broadband Telecom Income Tax Credit

Businesses that purchase qualified broadband equipment and infrastructure for the benefit of end users in Idaho may earn a 3% income tax credit up to \$750,000. This credit is transferable and may be carried forward up to 14 years.

TITLE 63

REVENUE AND TAXATION

CHAPTER 30

INCOME TAX

63-3029G. CREDITS FOR RESEARCH ACTIVITIES CONDUCTED IN THIS STATE -- CARRY FORWARD.

(1) (a) Subject to the limitations of this section, there shall be allowed to a taxpayer a nonrefundable credit against taxes imposed by sections [63-3024](#), [63-3025](#) and [63-3025A](#), Idaho Code, for increasing research activities in Idaho.

(b) The credit allowed by subsection (1)(a) of this section shall be the sum of:

(i) Five percent (5%) of the excess of qualified research expenses for research conducted in Idaho over the base amount; and

(ii) Five percent (5%) basic research payments allowable under subsection (e) of section 41 of the Internal Revenue Code for basic research conducted in Idaho.

(c) The credit allowed by subsection (1)(a) of this section shall be computed without regard to the calculation of the alternative incremental credit provided for in section 41(c)(4) of the Internal Revenue Code or the alternative simplified credit provided for in section 41(c)(5) of the Internal Revenue Code.

(2) As used in this section:

(a) The terms "qualified research expenses," "qualified research," "basic research payments" and "basic research" shall be as defined in section 41 of the Internal Revenue Code except that the research must be conducted in Idaho.

(b) The term "base amount" shall mean an amount calculated as provided in sections 41(c) and 41(h) of the Internal Revenue Code, except that:

(i) A taxpayer's gross receipts include only those gross receipts attributable to sources within this state as provided in subsections (q) and (r) of section [63-3027](#), Idaho Code; and

(ii) Notwithstanding section 41(c) of the Internal Revenue Code, for purposes of calculating the base amount, a taxpayer:

(A) May elect to be treated as a start-up company as provided in section 41(c)(3)(B) of the Internal Revenue Code, regardless of whether the taxpayer meets the requirements of section 41(c)(3)(B)(i)(I) or (II) of the Internal Revenue Code; and

(B) May not revoke an election to be treated as a start-up company.

(3) The credit allowed by subsection (1)(a) of this section together with any credits carried forward under subsection (5) of this section shall not exceed the amount of tax due under sections [63-3024](#), [63-3025](#) and [63-3025A](#), Idaho Code, after allowance for all other credits permitted by this chapter. When credits earned in more than one (1) taxable year are available, the oldest credits shall be applied first.

(4) In the case of a group of corporations filing a combined report under subsection (t) of section [63-3027](#), Idaho Code, credit earned by one (1) member of the group but not used by that member may be used by another member of the group. For a combined group of corporations, any member of the group may claim credit carried forward unless the member who earned the credit is no longer included in the combined group.

(5) The credit allowed by subsection (1)(a) of this section shall be claimed for the taxable year during which the taxpayer qualifies for the credit. If the credit exceeds the limitation under subsection (3) of this section, the excess amount may be carried forward for a period that does not exceed the next fourteen (14) taxable years.

(6) In addition to other needed rules, the state tax commission may promulgate rules prescribing, in the case of S corporations, partnerships, trusts or estates, a method of attributing the credit under this section to the shareholders, partners or beneficiaries in proportion to their share of the income from the S corporation, partnership, trust or estate.

TITLE 63

REVENUE AND TAXATION

CHAPTER 30

INCOME TAX

63-3029I. INCOME TAX CREDIT FOR INVESTMENT IN BROADBAND EQUIPMENT. (1) Subject to the limitations of this section, for taxable years beginning after January 1, 2001, there shall be allowed to a taxpayer a nonrefundable credit against taxes imposed by sections [63-3024](#), [63-3025](#) and [63-3025A](#), Idaho Code, for qualified expenditures in qualified broadband equipment in Idaho.

(2) The credit permitted in subsection (1) of this section shall be three percent (3%) of the qualified investment in qualified broadband equipment in Idaho and shall be in addition to the credit for capital investment permitted by section [63-3029B](#), Idaho Code.

(3) As used in this section the term:

(a) "Qualified investment" shall be as defined in section [63-3029B](#), Idaho Code.

(b) "Qualified broadband equipment" means equipment that qualifies for the credit for capital investment permitted by section [63-3029B](#), Idaho Code, and is capable of transmitting signals at a rate of at least two hundred thousand (200,000) bits per second to a subscriber and at least one hundred twenty-five thousand (125,000) bits per second from a subscriber, and

(i) In the case of a telecommunications carrier, such qualifying equipment shall be necessary to the provision of broadband service and an integral part of a broadband network. "Telecommunications carrier" has the meaning given such term by section 3(44) of the communications act of 1934, as amended, but does not include a commercial mobile service provider.

(ii) In the case of a commercial mobile service carrier, such qualifying equipment shall extend from the subscriber side of the mobile telecommunications switching office to a transmitting/receiving antenna, including such antenna, on the outside of the structure in which the subscriber is located. "Commercial mobile service carrier" means any person authorized to provide commercial mobile

radio service to subscribers as defined in section 20.3 of [title 47](#), Code of Federal Regulations (10-1-99 ed.), as amended.

(iii) In the case of a cable or open video system operator, such qualifying equipment shall extend from the subscriber's side of the headend to the outside of the structure in which the subscriber is located. The terms "cable operator" and "open video system operator" have the meanings given such terms by sections 602(5) and 653, respectively, of the communications act of 1934, as amended.

(iv) In the case of a satellite carrier or a wireless carrier other than listed above, such qualifying equipment is only that equipment that extends from a transmitting/receiving antenna, including such antenna, which transmits and receives signals to or from multiple subscribers to a transmitting/receiving antenna on the outside of the structure in which the subscriber is located. "Satellite carrier" means any person using the facilities of a satellite or satellite services licensed by the federal communications commission and operating a fixed-satellite service or direct broadcast satellite services to provide point-to-multipoint distribution of signals. "Other wireless carrier" means any person, other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video operator, or satellite carrier, providing broadband services to subscribers through the radio transmission of energy.

(v) In the case of packet switching equipment, such packet equipment installed in connection with other qualifying equipment listed in subsections (3)(b)(i) through (3)(b)(iv) of this section, provided it is the last in a series of equipment that transmits signals to a subscriber or the first in a series of equipment that transmits signals from a subscriber. "Packet switching" means controlling or routing the path of a digital transmission signal which is assembled into packets or cells.

(vi) In the case of multiplexing and demultiplexing equipment, such equipment only to the extent that it is deployed in connection with providing broadband services in locations between packet switching equipment and the structure in which the subscriber is located. "Multiplexing" means the transmission of two (2) or more signals over a communications circuit without regard to the communications technology.

(vii) Any property not primarily used to provide services in Idaho to public subscribers is not qualified broadband equipment.

(4) No equipment described in subsections (3)(b)(i) through (3)(b)(vi) of this section shall qualify for the credit provided in subsection (1) of this section until the taxpayer applies to and obtains from the Idaho public utilities commission an order confirming that the installed equipment is qualified broadband equipment. Applications submitted to the commission shall be governed by the commission's rules of procedure. The commission may issue procedural orders necessary to implement this section.

(5) The credit allowed by subsection (1) of this section together with any credits carried forward under subsection (7) of this section shall not, in any one (1) taxable year, exceed the lesser of:

(a) The amount of tax due under sections [63-3024](#), [63-3025](#) and [63-3025A](#), Idaho Code, after allowance for all other credits permitted by this chapter; or

(b) Seven hundred fifty thousand dollars (\$750,000).

When credits earned in more than one (1) taxable year are available, the oldest credits shall be applied first.

(6) In the case of a group of corporations filing a combined report under subsection (t) of section [63-3027](#), Idaho Code, credit earned by one (1) member of the group but not used by that member may be used by another member of the group, subject to the provisions of subsection (7) of this section, instead of carried over. For a combined group of corporations, credit carried forward may be claimed by any member of the group unless the member who earned the credit is no longer included in the combined group.

(7) If the credit allowed by subsection (1) of this section exceeds the limitation under subsection (5) of this section, the excess amount may be carried forward for a period that does not exceed the next fourteen (14) taxable years.

(8) In the event that qualified broadband equipment upon which the credit allowed by this section has been used ceases to qualify for the credit allowed by section [63-3029B](#), Idaho Code, or is subject to recapture of that credit, the recapture of credit under this section shall be in the same proportion and subject to the same provisions as the amount of credit required to be recaptured under section [63-3029B](#), Idaho Code.

(9) (a) Subject to the requirements of this subsection, a taxpayer who earns and is entitled to the credit or to an unused portion of the credit allowed by this section may transfer all or a portion of the unused credit to:

- (i) Another taxpayer required to file a return under this chapter; or
- (ii) To an intermediary for its use or for resale to a taxpayer required to file a return under this chapter.

In the event of either such a transfer, the transferee may claim the credit on the transferee's income tax return originally filed during the calendar year in which the transfer takes place and, in the case of carryover of the credit, on the transferee's returns for the number of years of carryover available to the transferor at the time of the transfer unless earlier exhausted.

(b) Before completing a transfer under this subsection, the transferor shall notify the state tax commission of its intention to transfer the credit and the identity of the transferee. The state tax commission shall provide the transferor with a written statement of the amount of credit available under this section as then appearing in the commission's records and the number of years the credit may be carried over. The transferee shall attach a copy of the statement to any return in regard to which the transferred credit is claimed.

(c) In the event that after the transfer the state tax commission determines that the amount of credit properly available under this section is less than the amount claimed by the transferor of the credit or that the credit is subject to recapture, the commission shall assess the amount of overstated or recaptured credit as taxes due from the transferor and not the transferee. The assessment shall be made in the manner provided for a deficiency in taxes under this chapter.

(10) In addition to other needed rules, the state tax commission may promulgate rules prescribing, in the case of S corporations, partnerships, trusts or estates, a method of attributing the credit under this section to the shareholders, partners or beneficiaries in proportion to their share of the income from the S corporation, partnership, trust or estate.

SALES TAX INCENTIVES

100% Sales Tax

Production Sales Tax Exemption

Businesses purchasing equipment and raw materials used directly in manufacturing, processing, mining, fabrication, or logging operations; for clean rooms used in semiconductor and semiconductor equipment manufacturing; for any equipment or material used in research and development activities; and processing materials, substances or commodities for use as fuel for the production of energy may earn a sales tax exemption.

Pollution Control Equipment Sales Tax Exemption

Businesses purchasing required pollution control equipment are exempt from sales tax on those purchases. Required pollution control facilities are exempt from property tax.

Utility & Industrial Fuels Sales Tax Exemption

Businesses are exempt from paying sales tax on utilities and industrial fuels. Examples include power, water, natural gas, and telephone.

TITLE 63

REVENUE AND TAXATION

CHAPTER 36

SALES TAX

63-3622D.PRODUCTION EXEMPTION. There are exempted from the taxes imposed by this chapter:

(a) The sale at retail, storage, use or other consumption in this state of:

(1) Tangible personal property which will enter into and become an ingredient or component part of tangible personal property manufactured, processed, mined, produced or fabricated for sale.

(2) Tangible personal property primarily and directly used or consumed in or during a manufacturing, processing, mining, farming, or fabricating operation, including, but not limited to, repair parts, lubricants, hydraulic oil, and coolants, which become a component part of such tangible personal property; provided that the use or consumption of such tangible personal property is necessary or essential to the performance of such operation.

(3) Chemicals, catalysts, and other materials which are used for the purpose of producing or inducing a chemical or physical change in the product or for removing impurities from the product or otherwise placing the product in a more marketable condition as part of an operation described in subsection (a)(2) of this section, and chemicals and equipment used in clean-in-place systems in the food processing and food manufacturing industries.

(4) Safety equipment and supplies required to meet a safety standard of a state or federal agency when such safety equipment and supplies are used as part of an operation described in subsection (a)(2) of this section.

(5) Plants to be used as part of a farming operation.

(b) Other than as provided in subsection (c) of this section, the exemptions allowed in subsections (a)(1), (a)(2), (a)(3) and (a)(4) of this section are available only to a business or separately operated segment of a business which is primarily devoted to producing tangible personal property which that business will sell and which is intended for ultimate sale at retail within or without this state. A contractor providing services to a business entitled to an exemption under this section is not exempt as to any property owned, leased, rented or used by it unless, as a result of the terms of the contract, the use of the property is exempt under section [63-3615](#)(b), Idaho Code.

(c) The exemptions allowed in subsections (a)(1), (a)(2), (a)(3) and (a)(4) of this section shall also be available to a business, or separately operated segment of a business, engaged in farming or mining, whether as a subcontractor, contractor, contractee or subcontractee, when such business or segment of a business is primarily devoted to producing tangible personal property which is intended for ultimate sale at retail within or without this state, without regard to the ownership of the product being produced.

(d) The exemptions allowed in subsections (a)(1), (a)(2), (a)(3) and (a)(4) of this section shall also be available to a business, or separately operated segment of a business, engaged in the business of processing materials,

substances or commodities for use as fuel for the production of energy, whether as a subcontractor, contractor, contractee or subcontractee, without regard to the ownership of the materials, substances or commodities being processed and irrespective of whether the materials, substances or commodities being processed are intended for ultimate sale at retail within or without this state.

(e) As used in this section, the term "directly used or consumed in or during" a farming operation means the performance of a function reasonably necessary to the operation of the total farming business, including, the planting, growing, harvesting and initial storage of crops and other agricultural products and movement of crops and produce from the place of harvest to the place of initial storage. It includes disinfectants used in the dairy industry to clean cow udders or to clean pipes, vats or other milking equipment.

(f) The exemptions allowed in this section do not include machinery, equipment, materials and supplies used in a manner that is incidental to the manufacturing, processing, mining, farming or fabricating operations such as maintenance and janitorial equipment and supplies.

(g) Without regard to the use of such property, this section does not exempt:

(1) Hand tools with a unit purchase price not in excess of one hundred dollars (\$100). A hand tool is an instrument used or worked by hand.

(2) Tangible personal property used in any activities other than the actual manufacturing, processing, mining, farming or fabricating operations such as office equipment and supplies, and equipment and supplies used in selling or distributing activities.

(3) Property used in transportation activities.

(4) Machinery, equipment, tools or other property used to make repairs. This subsection does not include repair parts that become a component part of tangible property exempt from tax under this section or lubricants, hydraulic oil, or coolants used in the operation of tangible personal property exempt under this section.

(5) Machinery, equipment, tools or other property used to manufacture, fabricate, assemble or install tangible personal property which is:

(i) Not held for resale in the regular course of business; and

(ii) Owned by the manufacturer, processor, miner, farmer or fabricator;

provided, however, this subsection does not prevent exemption of machinery, equipment, tools or other property exempted from tax under subsection (a)(2) or (a)(3) of this section.

(6) Any improvement to real property or fixture thereto or any tangible personal property which becomes or is intended to become a component of any real property or any improvement or fixture thereto.

(7) Motor vehicles and aircraft.

(8) Tangible personal property used or consumed in processing, producing or fabricating tangible personal property exempted from tax under this chapter in sections [63-3622F](#) and [63-3622I](#), Idaho Code.

(9) Tangible personal property described in section [63-3622HH](#), Idaho Code.

(h) Any tangible personal property exempt under this section which ceases to qualify for this exemption, and does not qualify for any other exemption or exclusion of the taxes imposed by this chapter, shall be subject to use tax based upon its value at the time it ceases to qualify for exemption. Any tangible personal property taxed under this chapter which later qualifies for this exemption shall not entitle the owner of it to any claim for refund.

The Idaho Tax Commission's Quick Guide to Production Exemption

The production exemption eliminates sales tax on purchases of materials and supplies used directly in the production process by farmers, manufacturers and other producers. The exemption also applies to purchases of certain kinds of production equipment. The equipment must be “directly” (its function must be a direct part of the production process) and “primarily” (more than 50% of its use must be in the production process) used in the production process.

To qualify:

- The business or segment of a business (a division or branch with its own identity and separate accounting records) must spend the majority of its time producing products that will be resold.
- The business or segment of a business must be engaged in one of these activities:
 - Farming
 - Mining
 - Ranching
 - Fabrication
 - Manufacturing
 - Processing
- The business or segment of a business must be “primarily” devoted to producing a product for resale. This means that more than 50% of its activities must involve production.
- The business or segment of a business needs to own the goods being manufactured, processed, etc. The production exemption does not apply to the service-oriented businesses, with the exception of custom farming and contract mining.

Purchases that are exempt:

The production exemption allows tax-free purchases of:

- Raw materials that become part of a final product
- Chemicals and catalysts that affect a production by causing a physical change and removing impurities.
- Equipment or other tangible personal property which is “primarily” and “directly” used in the production process.
- Safety equipment and supplies that are used directly in the production process and used to meet required standards set by state and federal agencies.

TITLE 63

REVENUE AND TAXATION

CHAPTER 36

SALES TAX

63-3622NN.CLEAN ROOMS. (1) There is exempted from the taxes imposed by this chapter the sale at retail, storage, use or other consumption in this state of tangible personal property which is exclusively used in or to maintain the environment of, or is or becomes a component part of, a clean room, without regard to whether the property is actually contained within the clean room or whether such tangible personal property ultimately becomes affixed to or incorporated into real property.

(2) The following definitions apply to this section:

(a) "Clean room" means an environment in a defined space, within a larger building, where humidity, temperature, particulate matter and contamination are precisely and regularly controlled; and

(i) Which is a "Class 10,000" clean room or better, and

(ii) In which the primary activities are:

1. Activities which qualify for the production exemption in section [63-3622D](#), Idaho Code, resulting in the manufacture of products which are either semiconductors, products manufactured using semiconductor manufacturing processes, or equipment used to manufacture semiconductors;

2. Activities which qualify for the research and development exemption in section [63-3622RR](#), Idaho Code; or

3. A combination of the activities described in subparagraphs 1. and 2. above.

(b) "Class 10,000 clean room" means a specified area in which the concentration of airborne particulates of five-tenths (0.5) micrometers or larger is regularly maintained at a level of cleanliness no greater than ten thousand (10,000) particles per cubic foot of air.

(c) "Semiconductor" means a small piece of semiconductor material including silicon:

(i) On which an integrated circuit is embedded, or

(ii) Which is altered in the manufacturing process by primarily using semiconductor processes.

(d) "Integrated circuit" means a complex of multiple active electronic components and their interconnections built upon a semiconductor substrate.

(e) "Semiconductor manufacturing processes" means chemical vapor deposition, plasma vapor deposition, wet and dry etch, chemical mechanical planarization or polishing and such other manufacturing processes generally recognized by the semiconductor industry as being standard processes in the industry.

(f) Property is "exclusively used" for a purpose when its use for any other purpose is insignificant or inconsequential.

From: <http://www.legislature.idaho.gov/idstat/Title63/T63CH36SECT63-3622X.htm>

TITLE 63

REVENUE AND TAXATION

CHAPTER 36

SALES TAX

63-3622X.POLLUTION CONTROL EQUIPMENT. (1) There is hereby exempted from the taxes imposed by this chapter the sale, use or purchase of tangible personal property acquired and primarily used for the purpose of meeting air or water quality standards, rules or regulations of a state or federal agency having authority to regulate and set air or water quality emission standards.

(2) The exemption provided in subsection (1) of this section applies to and includes:

(a) The purchase of dry cleaning equipment that is designed to protect employees from exposure to perchloroethylene as well as retaining the fluid in the machine in order to protect sewer systems and air quality standards. Dry cleaning machines meeting these standards are referred to as "dry to dry transfer systems";

(b) The purchase of a liner or reagent required to meet water quality standards, rules or regulations of a state or federal agency having authority to regulate and set water quality standards regardless of whether the liner or reagent later becomes or is intended to become a component of any real property or improvement or fixture thereto;

(c) The sale, use or purchase of tangible personal property that becomes a component, fixture or improvement to realty acquired and primarily used for the purpose of meeting air or water quality emission standards, rules or regulations when purchased by:

(i) Manufacturing, mining or farming businesses that qualify for the exemption provided by section [63-3622D](#), Idaho Code, but not including property used to treat drinking water or to treat air or water that is not required for a production process;

(ii) Contractors working for manufacturing, mining or farming businesses that qualify for the exemption provided by section [63-3622D](#), Idaho Code, who purchase, use or install qualifying material at the direction of a project owner, but not including property used to treat drinking water or to treat air or water that is not required for a production process; or

(iii) Businesses principally devoted to treating and storing hazardous or toxic waste; and

(d) Tangible personal property that is necessary for the operation of property that qualifies for the exemption available in paragraph (c) of this subsection.

(3) The exemption provided in subsection (1) of this section does not apply to or include:

(a) Motor vehicles or aircraft, without regard to the use to which such motor vehicles or aircraft are put;

(b) The sale, use or purchase of fixtures, plumbing fixtures, pipe, pumps or other items used to treat or transport wastewater to a wastewater treatment plant that is owned by a wastewater operator as defined in section [54-2403](#), Idaho Code;

(c) The sale, use or purchase of fixtures or tangible personal property that is used to treat or transport drinking water by a drinking water operator as defined in section [54-2403](#), Idaho Code;

(d) The sale, use or purchase of property used to prevent soil erosion;

(e) The sale, use or purchase of property that is affixed to realty and that is used in road construction or the construction of residential or commercial buildings or other improvements to realty owned by persons other than the businesses described in subsection (2)(c) of this section;

(f) The sale, use or purchase of property used to construct buildings or structures that merely house pollution control equipment or a pollution control facility, including both building materials and construction equipment and including equipment used for excavation;

(g) The sale, use or purchase of tangible personal property used to install pollution control equipment or facilities; or

(h) The sale, use or purchase of tangible personal property that will become part of a septic tank or septic system.

100% GOODS-IN-TRANSIT TAX

Exemption

The state's free port law provides that goods in-transit (goods purchased by a carrier in its business and delivered outside the state under a bill of lading for use by the carrier in its business) are exempt from taxation.

TITLE 63
REVENUE AND TAXATION
CHAPTER 6

EXEMPTIONS FROM TAXATION

63-602U. PROPERTY EXEMPT FROM TAXATION -- PERSONAL PROPERTY SHIPPED INTO THE STATE AND STORED IN A PUBLIC OR PRIVATE WAREHOUSE STRUCTURE, AND DESIGNATED FOR SHIPMENT OUT OF THE STATE TO BE CONSIDERED IN TRANSIT. (1) Personal property shipped into this state and stored in a public or private warehouse structure, which property is not offered for sale in Idaho and designated for reshipment outside of the state, is considered to be "in transit" and shall be exempt from taxation. Such property shall not be deprived of exemption because while in storage, awaiting such further shipment, such personal property is labeled, packaged, disassembled, divided, broken in bulk, relabeled, or repackaged, or because the personal property is held for resale to customers outside the state of Idaho. Provided that all personal property claimed to be exempt "in transit" be labeled as such and shall be designated immediately upon receipt as being in transit upon the books and records of the warehouse, whether public or private, wherein the same is located. The books and records of such storage warehouse shall contain a full, true and correct inventory of all such property, together with the date of receipt of same, the point of origin, the date of its withdrawal, and, if known, the ultimate destination thereof. The books and records pertaining to the storage of any such in transit property shall be opened to inspection by any taxing authority in the state of Idaho having jurisdiction thereof upon reasonable demand having been made.

(2) Public warehousing is the storing of personal property by any person, firm or corporation regularly engaged in the business of storing such property for hire.

(3) Private warehousing is the storage of personal property by any person, firm or corporation which is carrying on the activity of warehousing or storing such property only in the operation of his or its own business. This exemption shall only apply to private storage from and after a notice, describing by address and physical premises, is filed with the county assessor, which notice shall be filed annually.

ADDITIONAL INCENTIVES

Idaho Prime Rate Loan Program

Commercial banks offer low-interest loans to qualifying small businesses with up to 85% Small Business Administration Guaranty.

Up To \$20 Million In Industrial Revenue Bonds

Tax-free bonds to finance manufacturing, processing, production, and assembly projects are issued by a public corporation with the project or business serving as collateral. Also, taxable industrial revenue bonds are available up to and exceeding \$20 million.

From: <http://www.legislature.idaho.gov/idstat/Title50/T50CH28.htm>

TITLE 50

MUNICIPAL CORPORATIONS

CHAPTER 28

IDAHO PRIVATE ACTIVITY BOND CEILING ALLOCATION ACT

50-2801.DEFINITIONS. As used in sections [50-2801](#) through [50-2805](#), Idaho Code:

(1) "Bond" means any obligation for which an allocation of the volume cap is required by the code.

(2) "Certificates" mean mortgage credit certificates described in section 25 of the code.

(3) "Code" means the Internal Revenue Code of 1986, as amended, and any related treasury regulations.

(4) "Executive order" means the executive order or other administrative action of the governor pursuant to section [50-2804](#), Idaho Code, and any amendments thereto.

(5) "Governmental unit" means (i) any county, city or port district, (ii) any public corporation created pursuant to section [50-2703](#), Idaho Code, or other entity acting on behalf of one or more counties, cities, or both, (iii) the state, or (iv) any other entity authorized to issue bonds.

(6) "Project" means the facility or facilities to be financed in whole or in part with the proceeds of the bonds, or a program in which the proceeds of the bonds are used directly or indirectly to finance loans to individuals for educational expenses.

(7) "State" means the state of Idaho, any of its agencies, and any of its institutions of higher education.

(8) "State ceiling" means the ceiling for the state as computed under section 146(d) of the code.

(9) "Volume cap" means the volume cap for the state as computed under section 146 of the code.

(10) "Year" means each calendar year beginning calendar year 1987.

TITLE 50

MUNICIPAL CORPORATIONS

CHAPTER 28

IDAHO PRIVATE ACTIVITY BOND CEILING ALLOCATION ACT

50-2802.FINDING AND DECLARATION OF NECESSITY. The legislature hereby finds and declares that the Tax Reform Act of 1986 imposes an annual state ceiling on the amount of bonds or certificates that may be issued, the interest on which is excludable from gross income for purposes of federal income taxation; that section 146(e)(1) of the code provides that the legislature may enact a different formula for allocating the state ceiling among the governmental units different from the formula contained in the code; and that a different formula is necessary

to allocate the state ceiling by the least complicated method possible and to insure an efficient use of the state ceiling.

TITLE 50
MUNICIPAL CORPORATIONS
CHAPTER 28

IDAHO PRIVATE ACTIVITY BOND CEILING ALLOCATION ACT

50-2803.ALLOCATION FORMULA. The entire state ceiling for the year, including any carry-forward under section 146(f) of the Internal Revenue Code, shall be allocated by the following formula. The state ceiling shall be allocated by the state to governmental units, as needed to finance qualified projects and programs under the Internal Revenue Code, as amended, on the basis of effective utilization, need, economic impact and efficient distribution of resources throughout the state by the department of commerce. The allocation formula established by this section shall be implemented and administered by the governor pursuant to the terms and provisions of an executive order which shall make provisions for priorities of projects and programs based on the formula. No qualified applicant for the state ceiling shall render decisions in the allocation formula.

TITLE 50
MUNICIPAL CORPORATIONS

CHAPTER 28

IDAHO PRIVATE ACTIVITY BOND CEILING ALLOCATION ACT

50-2804.AUTHORITY OF THE GOVERNOR. The governor is authorized and directed to provide for the implementation and administration of the allocation formula established in section [50-2803](#), Idaho Code, by executive order. The executive order shall: (i) establish rules and procedures for the form, contents, submission, processing, priorities and approval of applications for allocations of the state ceiling; (ii) designate an agency for receipt, verification and approval of applications and for authorization of allocations; (iii) provide for the carry-forward of an allocation under section 146(f) of the code; (iv) provide for the issuance to governmental units of certificates evidencing an allocation of the state ceiling; (v) establish a period of time within which allocations must be used; (vi) provide for a means of reallocating portions of the state ceiling with respect to allocations for bonds or certificates that are not actually issued or are issued in a lesser amount than that portion of the state ceiling which was allocated to the bonds; and (vii) provide for, through the establishment of rules and procedures or otherwise, any other matters necessary or desirable to implement and administer the allocation formula and to provide for an efficient use of the state ceiling.

TITLE 50
MUNICIPAL CORPORATIONS
CHAPTER 28

IDAHO PRIVATE ACTIVITY BOND CEILING ALLOCATION ACT

50-2805.MISCELLANEOUS. (1) No action taken pursuant to this chapter shall be deemed to create an obligation, debt or liability of any governmental unit or be deemed to constitute an approval of any obligations issued or to be issued hereunder.

(2) If any provision of this chapter shall be held to be or shall, in fact, be invalid, inoperative or unconstitutional, the defect of the provision shall not affect any other provision of this chapter or render it invalid, inoperative or unconstitutional. To the extent this chapter shall be held to be or shall, in fact, be invalid, inoperative or unconstitutional, all allocations of the state

ceiling previously made under this chapter shall be treated as allocations made by the legislature.

(3) The state pledges and agrees with the holders of any bonds with respect to a project for which an allocation of the state ceiling was applied for by a governmental unit and which has been granted under this chapter that the state will not retroactively alter the allocation of the state ceiling to the governmental unit for such bonds.